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RECENT IMPORTANT DECISIONS

ADVERSE POSSESSION—POSSESSION IN ONE COUNTY CARRIES POSSESSION TO CLAIMED BOUNDARIES IN ANOTHER COUNTY.—In an action of ejectment for a tract of land lying in two counties, the defendant claimed title by adverse possession under color of title. The question was whether actual possession in one county would give constructive possession in the other county. *Held*, since the enactment of Section 62, Civil Code, allowing an action for the recovery of real property to be brought in the county in which the land lies, or any part thereof, actual possession in one county gives constructive possession in the other. *Bevins v. Blackburn*, 225 S. W. 372 (Ky., 1920).

Prior to the above provision, when the action of ejectment must have been brought in the county in which the land lay, actual possession in one county under color of title to a tract of land lying in two counties did not give constructive possession in the other. *Hord v. Walker*, 5 Litt. 22 (Ky., 1824); *Souder v. McMillen Heirs*, 4 Dana 456 (Ky., 1836). The court undoubtedly considered itself justified in refusing to extend the constructive possession beyond the county in which there was actual possession, upon the ground that ejectment could only be brought against one in actual possession. If such were the case, a disseizee would lose his seisin in the county in which the disseizor had only a constructive possession, but would at no time during the statutory period be able to recover possession. An adverse possessor under color of title, in actual possession of a part and claiming to the extent of the boundaries embraced in his deed, may, however, bring ejectment for a dispossession of that part of the tract over which he had only a constructive possession. *Hicks v. Coleman*, 25 Cal. 122 (1864). He may also bring trespass under the same circumstances. *Parker v. Wallis*, 60 Md. 15 (1882); *Welsh v. Louis*, 31 Ill. 446 (1863). Both ejectment and trespass, q. c. f., lie for injuries to a possessory right. It seems, therefore, that if one can maintain ejectment and trespass for the invasion of a constructive possession that ejectment will lie *against* one who has only a constructive possession. As a disseizee would thus be able to recover his possession in both counties, there seems to be no sound reason for saying that the same rule should not apply to a tract of land lying in two counties that apply to a tract of land lying in one county. In *Hord v. Walker*, *supra*, the court for authority relied on Coke's statement that to revest seisin in a tract of land lying in two counties there must be a reëntry in each county. COKE ON LITT. 252 b. But Coke was discussing seisin, not possession. It is submitted that the court in the principal case might have arrived at the same conclusion in the absence of any statutory provision relating to ejectment.

ASSIGNMENTS—INSTRUCTION TO DEBTOR TO PAY DEBT TO THIRD PERSON.—A father told his sons that if they would pay the unpaid purchase money debt evidenced by bonds he would give them his farm to belong to them